

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.323 of 1998.

Thursday this the 23rd day of November, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

A.Thiruselvan,
S/o late M.Ayya Durai,
Junior Engineer/Diesel/Mechanical/I,
Diesel Shed, Southern Railway,
Ernakulam. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through
the Secretary to Government of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
4. K.Venkateswara Rao,
Section Engineer/Diesel,
Southern Railway,
Diesel Shed,
Krishnarajapuram,
Bangalore-36.
5. P.Jaison Jaikumar,
Section Engineer/Diesel,
Southern Railway,
Diesel Shed,
Erode.

6. S.Vijayakumar,
Section Engineer/Diesel,
Southern Railway,
Diesel Shed,
Mysore Railway Station,
Mysore.
7. R.Krishnamoorthy,
Section Engineer/Diesel,
Southern Railway,
Diesel Loco Shed,
Goldren Rock,
Tiruchirappally District.
8. C.Thenralmani,
Section Engineer/Diesel,
Southern Railway,
Diesel Loco Shed,
Golden Rock,
Tiruchirappally District.
9. Ashish Agarwal,
Senior Divisional Mechanical Engineer,
Diesel Shed,
Krishnarajapuram,
Bangalore-36.
10. Sreenivasan,
Chief Workshop Engineer,
Southern Railway,
headquarters Office,
Park Town.P.O.
Madras-3.
11. Venkata Subramanian,
Deputy Chief Mechanical Engineer,
(Diesel), Headquarters Office,
Park Town.P.O.
Madras-3.

- Respondents

By Advocate Mrs Sumathi Dandapani(for R.1 to 3 and 9 to 11)

The application having been heard on 23.11.2000, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-4 and to direct the
respondents to conduct a fresh selection for promotion to the
post of Section Engineer/Diesel in the pay scale of

Rs.2000-3500(Rs.6500-10500) in accordance with law and to consider the applicant accordingly.

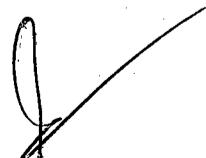
2. Applicant is working as Junior Engineer/Diesel Loco Shed at Ernakulam. He is aggrieved by non-selecting him to the next higher post of Section Engineer/Diesel. As per A-4, respondent Nos. 4 to 8 were selected and placed on the panel provisionally for the post of Section Engineer. He belongs to Scheduled Caste community. Various grounds are raised in the O.A.

3. One of the grounds raised is that in terms of A-7, respondents concerned ought to have forwarded applicant's case to the General Manager for review and that the very fact that his name was not forwarded to General Manager for review implies that the respondents concerned are not inclined even to have the applicant's non-selection reviewed by the competent authority as per Railway Board orders.

4. Though the official respondents have filed a reply statement running into 11 pages, the reply statement is silent about this particular ground raised by the applicant.

5. A-7 which is heavily relied on by the applicant says that:

"In terms of Board's letter No.E(SCT) 70 CM 15/9 dated 5.8.1972 in selection posts, the cases of reserved community candidates who are not empanelled should



invariably be put up to the G.M. irrespective of the fact that whether the reservation quota has been filled or not, and in the case of non-selection posts in Group A and D categories the cases of supersession will be personally reviewed by HOD in headquarters office, DRM in the case of Divisional Officers and ACME in the case of Workshop staff."

Official respondents say that the applicant was not empanelled as he did not secure the requisite minimum qualifying marks in the professional ability on the basis of his performance in the written test and viva voce, but there is no dispute that the applicant belongs to Scheduled Caste. That being the position, in the light of A-7, even if he was not empanelled as stated by the official respondents still there is a duty cast on the concerned officer to put up his case before the General Manager. That has not been done in this case. There is absolutely no reason stated for non-compliance of A-7. In that situation it has become necessary to review the case of the applicant.

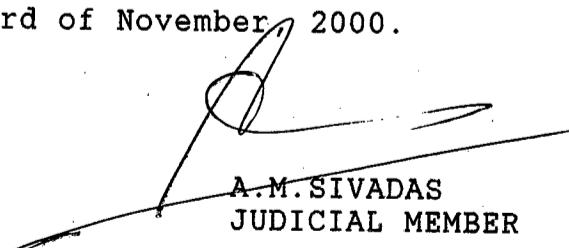
6. Accordingly the O.A. is disposed of directing the General Manager, Southern Railway, the second respondent to review the case of the applicant in the light of A-7 and pass appropriate orders as expeditiously as possible. No costs.

Dated, the 23rd of November 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

trs



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-4: True copy of the Panel bearing No.P(S) 312/I/DSL/Final dated 4.9.97 issued by the 3rd respondent.
2. A-7: True extract of the Railway Board Order No.E(SCT)74 CM 15/35 dated 27.8.94 as published in Chapter VIII para 16 of "A Rule Book on Railway Establishment and Personnel Management" by SL Sharma, retired Senior Personnel Officer.